

STATE OF NEW YORK

5257--C

Cal. No. 414

2025-2026 Regular Sessions

IN SENATE

February 20, 2025

Introduced by Sens. HINCHEY, RHOADS, ROLISON, C. RYAN -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the general business law, in relation to requiring mandatory background checks for persons employed by certain businesses serving minors and prohibiting certain persons from owning such businesses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general business law is amended by adding a new section
2 398-h to read as follows:

3 § 398-h. Background check requirements for youth service providers. 1.
4 As used in this section:

5 (a) (i) "Youth service provider" means any business corporation, not-
6 for-profit corporation, limited liability company, or limited partner-
7 ship that regularly provide instructional, recreational or extracurric-
8 ular services to minors, including but not limited to:

9 (A) dance, gymnastics, music, or performing arts studios or schools;

10 (B) martial arts academies;

11 (C) sports training facilities; or

12 (D) tutoring or academic enrichment centers.

13 (ii) "Youth service provider facility" shall not include any public or
14 private school subject to the provisions of the education law or any day

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 care center subject to the provisions of article six of the social
2 services law.

3 (b) "Covered person" means an operator, employee, regular volunteer,
4 or independent contractor that is eighteen years of age or older, who
5 has direct responsibility for the supervision, instruction, care, or
6 safety of minors and has contact with minors through a youth service
7 provider facility.

8 (c) "Minor child" or "minor" means a child under the age of eighteen
9 years.

10 (d) "Regular volunteer" means a volunteer who is eighteen years of age
11 or older and who has direct responsibility for the supervision, instruc-
12 tion, care, or safety of minors through a youth service provider for
13 more than sixteen hours per month or thirty-two hours per year.

14 2. Notwithstanding any other provision of law to the contrary, and
15 subject to rules and regulations of the division of criminal justice
16 services, the following background checks shall be conducted by youth
17 service providers for covered persons at the time and in the manner
18 required by this section:

19 (a) a search of the New York state sex offender registry;

20 (b) a search of any state sex offender registry or repository in each
21 state other than New York where such person resides or resided during
22 the preceding five years, if applicable unless such state's sex offender
23 registry information will be provided as part of the clearance conducted
24 pursuant to paragraph (c) of this subdivision; and

25 (c) a search of the United States department of justice national sex
26 offender public website.

27 3. A covered person must undergo a background check as described in
28 subdivision two of this section:

29 (a) after a job offer but prior to commencement of employment by a
30 youth service provider;

31 (b) before regularly volunteering at, being contracted by, or operat-
32 ing a youth service provider; and

33 (c) at least once every five years during such employment, regularly
34 volunteering, contracting, or operating at the youth service provider
35 facility.

36 4. Notwithstanding any other provision of law to the contrary, a
37 covered person shall be deemed disqualified from employment, regularly
38 volunteering, or contracting at a youth service provider facility if
39 such person, either prior to the commencement or during employment,
40 regularly volunteering, or contracting:

41 (a) refuses to consent to the background check described in subdivi-
42 sion two of this section;

43 (b) knowingly makes a materially false statement in connection with
44 such background check; or

45 (c) is registered, or is required to be registered, on a state sex
46 offender registry or repository or the United States department of
47 justice national sex offender registry.

48 5. No person who is registered, or is required to be registered, on a
49 sex offender registry pursuant to paragraph (c) of subdivision four of
50 this section shall own or operate a youth service provider facility. For
51 purposes of this subdivision, ownership shall mean having a controlling
52 interest in the youth service provider facility.

53 6. The provisions of this section shall not apply to any person
54 rendering emergency services at the youth service provider facility.

55 7. Upon the request of any covered person denied or disqualified from
56 employment, contract, volunteer position, or operator position under

1 subdivision two, three or four of this section, the youth service
2 provider shall provide, within thirty days of such request, a written
3 statement setting forth the reasons for such denial or disqualification.
4 Any such covered person denied or disqualified from employment,
5 contract, volunteer position, or operator position pursuant to subdivi-
6 sion two, three or four of this section shall be afforded the opportu-
7 nities for enforcement available pursuant to section seven hundred
8 fifty-five of the correction law.

9 8. (a) Whenever there shall be a violation of any provision of this
10 section, an application may be made by the attorney general in the name
11 of the people of the state of New York to a court or justice having
12 jurisdiction by a special proceeding to issue an injunction, and upon
13 notice to the respondent of not less than five days, to enjoin and
14 restrain the continuance of such violations; and if it shall appear to
15 the satisfaction of the court or justice that the respondent has, in
16 fact, violated any provision of this section, an injunction may be
17 issued by such court or justice, enjoining and restraining any further
18 violation, without requiring proof that any person has, in fact, been
19 injured or damaged thereby. Whenever the court shall determine that a
20 violation of any provision of this section has occurred, the court may
21 impose a civil penalty of not more than ten thousand dollars for each
22 violation. In connection with any such application, the attorney general
23 is authorized to take proof and make a determination of the relevant
24 facts and to issue subpoenas in accordance with the civil practice law
25 and rules.

26 (b) A youth service provider or owner that fails to comply with the
27 background check requirements of this section or knowingly employs or
28 contracts with an individual or regular volunteer disqualified under
29 subdivision four of this section may be subject to suspension or revo-
30 cation of any license or permit to operate the youth service provider
31 facility where the violation occurred.

32 § 2. The division of criminal justice services shall promulgate and
33 enforce any rules and regulations necessary for the implementation of
34 this act.

35 § 3. Severability. If any clause, sentence, paragraph, subdivision,
36 section or part of this act shall be adjudged by any court of competent
37 jurisdiction to be invalid, such judgment shall not affect, impair, or
38 invalidate the remainder thereof, but shall be confined in its operation
39 to the clause, sentence, paragraph, subdivision, section or part thereof
40 directly involved in the controversy in which such judgment shall have
41 been rendered. It is hereby declared to be the intent of the legislature
42 that this act would have been enacted even if such invalid provisions
43 had not been included herein.

44 § 4. This act shall take effect on the one hundred eightieth day after
45 it shall have become a law. Effective immediately, the addition, amend-
46 ment and/or repeal of any rule or regulation necessary for the implemen-
47 tation of this act on its effective date are authorized to be made and
48 completed on or before such effective date.